

REMARKS/ARGUMENTS

Applicants reply to the Office Action dated November 17, 2008. Support for the amendments may be found in the originally-filed specification, claims and figures. Applicants respectfully request reconsideration of the pending claims.

Rejection based on 35 U.S.C. § 101

The Examiner rejects claims 32-39, 75 & 76 under 35 U.S.C. § 101 as being directed towards non-statutory subject matter. Applicants respectfully traverse this rejection.

Applicants direct the Examiner's attention to claim 32, as amended. Claim 32 now includes, at least, "A licence ownership computer implemented method ...". Applicants respectfully submit that such a claim is directed to statutory subject matter as the process is now tied to a statutory class, i.e. a computing system, as defined by the "licence ownership computer implemented" portion of the claim wording. Therefore, the method is a patent eligible process under 35 U.S.C. § 101.

As claims 33 – 39, 75 and 76 are dependent on claim 32, the same arguments as defined above apply to these claims through their dependency.

Applicants direct the Examiner's attention to claim 75, as amended. This claim is now directed towards a system, and so is directed towards statutory subject matter according to 35 U.S.C. § 101.

Applicants direct the Examiner's attention to claim 76, as amended. This claim (which depends on claim 32) is now directed towards a computer readable media including software (e.g., a ROM, CD, CD-ROM, etc.), and so is directed towards statutory subject matter according to 35 U.S.C. § 101.

Rejection based on 35 U.S.C. § 112

The Examiner rejects claims 32-39, 75 and 76 as being indefinite. Applicants respectfully traverse this rejection.

Claim 32 has been amended to show more clearly that further software product licensing data is retrieved from the customer. This will be clearly understood by the skilled reader to mean that the software product licensing data retrieved from the customer is in addition to the (i.e. “further”) software product licensing data retrieved from the sales database. Further, the phrase in part iii) has been rewritten to show more clearly that it is the assessed customer use that is retrieved.

Regarding the examiner’s objection to claim 32 as omitting the essential step of assessing use of the software product, the following comments are provided. The step of assessing is not considered an essential step of the claimed invention as the assessment step may be implemented using any suitable method whether part of the computer implemented method or not, and as such is not required to be included within the scope of claim 32.

Claim 33 has been amended to show more clearly that the assumptions are as defined by pre-stored algorithms.

Claim 35 has been amended to remove the contradiction indicated by the examiner.

Claim 40 has been cancelled, and the subject matter of claim 40 has been amended and inserted into claim 32. The amendment has removed the relative term “more” and redefined the data as “further” data.

Claim 75 has been amended to define the invention in terms of a system.

Rejection based on 35 U.S.C. § 102

The Examiner rejects claims 32-35, 37-39, 75 and 76 as being anticipated by US Patent No. 7,197,466 to Peterson et al. ("Peterson"). Applicants respectfully traverse this rejection.

The features of claim 40 have been inserted into claim 32. As admitted by the examiner in paragraph 39 of the examination report, Peterson does not disclose the licence ownership position being refined by providing further data. Therefore, all the features of claim 32 are not disclosed in Peterson and so claim 32 is novel over the prior art of record.

Dependent claims 33-39 variously depend from independent claim 1 so Applicants assert that these dependent claims are patentable for at least the same reasons for differentiating independent claim 1 as well as in view of their own respective features.

Rejection based on 35 U.S.C. § 103

The Examiner rejects claims 32-40, 75 and 76 as being obvious over US Patent No. 7,197,466 to Peterson et al. ("Peterson"). Applicants respectfully traverse this rejection.

The rejection of claims 32-40, 75 and 76 under 35 U.S.C. § 103(a) is improper for at least the reason that the reference relied upon by the Examiner, either alone or in combination with common general knowledge, fails to disclose the features of Applicant's pending claims.

Claims 32 and 75 have been amended to further include the feature wherein the licence ownership position is refined by providing further data. By providing further data in conjunction with the already available data, the claimed method (and system of claim 75) is able to produce a more accurate depiction of the licence ownership position of the customer. The provision of the further data enables a new licence ownership position to be calculated, which takes into account updated, and so more reliable, data. That is, the further data used to refine the licence ownership position provides a more accurate representation of the customer's licence position.

Peterson describes a generic software management system that focuses on the interconnection of various network elements, such as databases. However, Peterson does not provide any teaching or suggestion of the use of further data in conjunction with the already available data in order to refine a licence ownership position. Peterson merely relies on old data stored in a database without taking into account any potential updates or changes in the customer's situation.

It is respectfully suggested that the examiner has merely used hindsight in reaching an obviousness objection, and as such the objection is unfounded. A skilled person reviewing Peterson, using common general knowledge, would not be directed towards the use of further data to refine the licence ownership position as they would be of the opinion that the data already provided from the available sources would be sufficient. That is, it would be counter-intuitive for the skilled person to come to the conclusion that further data is required to refine the licence ownership position as they would consider the data already provided to be sufficient, which is an incorrect assumption. This is the problem that the claimed invention is aiming to solve. Therefore, a skilled person confronted with an inaccurate licence ownership position would take the intuitive step of reviewing how the licence ownership data is stored and look at ways of keeping the licence ownership data up to date, as opposed to relying on the data stored, and subsequently refining the licence ownership position based on further data as provided for in the claimed invention.

Independent claim 75 includes the same features as claim 32 in system form and as such the same arguments apply to claim 75 as they do for claim 32. For this reason Applicants respectfully traverses the rejection to claim 75.

Dependent claims 33-39 and 76 variously depend from independent claim 32 so Applicants assert that they are patentable for at least the same reasons for differentiating the independent claims 32, as well as in view of their own respective features.

In view of the above amendments and remarks, Applicants respectfully submit that all the claims are patentable and that the entire application is in condition for allowance.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140 under Order No. PTB-4942-6.

Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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